

REMARKS

This paper is being filed in response to the Final Office Action dated December 2, 2004 that was issued in the above-identified application. A Request for Continued Examination and the required fee accompany this paper. At the outset, Applicants wish to thank the Examiner for her helpful comments during a telephone conversation with Applicant's attorney, Peter Shen, on January 5, 2005. In accordance with those discussions, Applicants have amended the specification and claims in effort to place the application in condition for allowance.

Claims 42-43, 45-51, 53, 55-56, 82 and 85-86 are pending. Claims 42, 48, 49, 53 and 85 have been amended to place the claims in condition for allowance. Specifically, Claims 42, 48, 49 and 53 have been amended solely to expedite prosecution by removing any reference to an immunogenic epitope in order to obviate the art-based rejections. Claim 85 has been amended to obviate the rejection premised on a lack of antecedent basis. These amendments are supported by the application as originally filed and, therefore, do not constitute new matter.

The instant specification has been amended to correctly recite the related application data. No new matter has been added by this amendment to the specification. Applicants note that, by amendment filed with the U.S. Patent and Trademark Office on January 6, 2005 for parent Application No. 09/611,419, the specification of Application No. 09/611,419 was also amended to correctly recite the related application data. Accordingly, it is respectfully requested that Applicants' claim for priority be accorded to U.S. Application No. 08/123,975 filed on September 21, 1993.

The Claimed Invention Is Not Anticipated by Halpern

Claims 42-43, 45-47, 55-56, 82, and 85-86 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Halpern et al., 1993 (“Halpern”). However, the Office Action states that “[t]he rejection could be obviated by amending the claims to no longer recite [at least one epitope] and just to recite ‘comprises . . . SEQ ID NO 8.’” Therefore, as suggested in the Office Action, independent Claims 42, 48, 49 and 53 have been amended to remove any reference to an immunogenic epitope. Accordingly, Applicants assert that, since Halpern does not disclose SEQ ID NO:8, it does not anticipate the claims as amended. As such, Applicants respectfully request that the rejections in view of Halpern be withdrawn.

The Claimed Invention Is Not Anticipated by Smith

Claim 48 and dependent Claim 51 stand rejected under 35 U.S.C. § 102(a) as allegedly anticipated by Smith et al. (“Smith”). The Office Action states that “[t]he rejection could be obviated by amending the claims to no longer recite [at least one epitope] and just to recite ‘comprises . . . SEQ ID NO 8.’” As suggested in the Office Action, independent Claim 48 has been amended to remove any reference to an immunogenic epitope. Accordingly, Applicants assert that, since Smith does not disclose SEQ ID NO:8, it does not anticipate the claims as amended. As such, Applicants respectfully request that the rejections in view of Smith be withdrawn.

The Claimed Invention Is Not Anticipated by Whelan

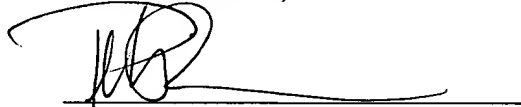
Claims 42-43, 45-47, 48-49, 50, 55 and 82 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Accession No. M81186 of Whelan et al. ("Whelan"). The Office Action states that "[t]he rejection could be obviated by amending the claims to no longer recite [at least one epitope] and just to recite 'comprises . . . SEQ ID NO 8.'" As suggested in the Office Action, independent Claims 42, 48, 49 and 53 have been amended to remove any reference to an immunogenic epitope. Accordingly, Applicants assert that, since Whelan does not disclose SEQ ID NO:8, it does not anticipate the claims as amended. As such, Applicants respectfully request that the rejections in view of Whelan be withdrawn.

Conclusion

Applicants believe that the application is in condition for allowance and respectfully request favorable action. The Examiner is kindly invited to contact the undersigned if helpful to advance the application to allowance.

Respectfully submitted,

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